

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

August 24, 1999

IN RE:)	
)	
PETITION OF AVR, LP d/b/a HYPERION OF)	DOCKET NO. 99-00287
TENNESSEE, LP FOR APPROVAL OF AN)	
INTRALATA TOLL DIALING PARITY PLAN)	

**ORDER APPROVING THE INTRALATA TOLL DIALING PARITY
IMPLEMENTATION PLAN**

This matter came before the Tennessee Regulatory Authority (the "Authority") on June 22, 1999, at a regularly scheduled Authority Conference, to consider the Petition of AVR, LP d/b/a Hyperion of Tennessee, LP ("Hyperion") for approval of its IntraLATA Toll Dialing Parity Implementation Plan ("the Plan").

Section 251(b) of the Telecommunications Act of 1996 ("the Act") requires all Local Exchange Carriers to provide dialing parity.¹ Specifically, section 251 (b)(3) of the Act states, "Dialing Parity - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." The Act further states in sections 251(f)(1) and 251(f)(2) that a rural telephone company may file with the state commission for

¹ Telecommunications Act of 1996, Pub. L. No. 104-104, (February 8, 1996), codified at 47 U.S.C. §§151 *et seq.*

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exemption, suspension or modification of the dialing parity requirements.

The Federal Communications Commission ("FCC") initiated a rulemaking on dialing parity on April 19, 1996 and issued its findings in FCC 96-333 Order (Docket 96-98) adopted on August 8, 1996. This Order sets forth the criteria and guidelines for filing of a plan by all carriers. Subsequent to this Order the United States Court of Appeals for the Eighth Circuit vacated the FCC's rules, as they were applicable to intrastate services.² On January 25, 1999, the United States Supreme Court reversed certain portions of the Eighth Circuit's decision including that part of the decision which had stricken the FCC's rules pertaining to dialing parity.³

The FCC's original date for implementation, February 8, 1999, was reinstated by the Supreme Court's decision of January 25, 1999. As a result of this reinstatement, the FCC released FCC 99-54 Order (Docket 96-98) on March 23, 1999, which set forth revised implementation dates for dialing parity. This Order establishes April 22, 1999 as the new date by which all Local Exchange Carriers must file an IntraLATA Toll Dialing Parity Plan with State Commissions for approval. The Plan must be implemented within thirty (30) days after approval from the State Commission. Additionally, the Order states that the Plan must be filed with the Common Carrier Bureau of the FCC if the State Commission has not acted on the Plan by June 22, 1999.

Hyperion is a telecommunications company operating under Tenn. Code Ann. § 65-4-201 as a competing local exchange carrier that provides telecommunications services in Tennessee. Pursuant to 47 C.F.R. § 51.213, Hyperion is required to file a plan with the

² FCC v. Iowa Utils. Bd., United States Court of Appeals for the Eighth Circuit, July 18, 1997.

³ AT&T v. Iowa Utils. Bd., 119 S.Ct. 721 (1999).

Authority that provides for implementing intraLATA toll dialing parity throughout the exchanges where Hyperion offers service in Tennessee.⁴ This plan must allow customers to pre-subscribe to different carriers for local service, intraLATA toll service and interLATA toll service.⁵

Hyperion filed its IntraLATA Toll Dialing Parity Implementation Plan on April 22, 1999. The Plan was amended on June 10, 1999. The Plan, as amended, containing Hyperion's Petition for Approval, is attached hereto as Exhibit A and is fully incorporated herein by this reference.

The Directors considered Hyperion's Plan at the June 22, 1999 Authority Conference and determined that the Plan, as amended, satisfies the requirements set forth by the FCC in Docket 96-98, FCC Order 96-333 and FCC Order 99-54.⁶ The Plan provides for a method that enables customers to select alternate providers of telephone toll service; a method which allows customers to choose different carriers for interLATA and intraLATA service; customer notification/education procedures; and a PIC change charge waiver period. The Directors unanimously voted to approve Hyperion's Toll Dialing Parity Plan as amended, with the requirement that Hyperion comply with all applicable sections of FCC Order 96-333 upon implementation of intraLATA equal access.

⁴ Under 47 C.F.R. §51.213, the Federal Communication Commission requires that an IntraLATA toll dialing parity plan contain: (1) a proposal that explains how the local exchange carrier will offer intraLATA toll dialing parity for each exchange that such carrier operates in the state, in accordance with the provisions of this section, and a proposed time schedule for implementation; and (2) a proposal for timely notification to its subscribers and the methods it proposes to use to enable each subscriber to affirmatively select an intraLATA toll service provider. The state commission must approve any such plan prior to implementation.

⁵ Pre-subscription allows the customer to place a call without dialing an access code.

⁶ FCC Order 96-333, released August 8, 1996, sets forth the requirements for implementation of IntraLATA Toll Dialing Parity. FCC Order 99-54, released March 23, 1999, extends to June 22, 1999 the deadline for state commissions to act on a LEC's IntraLATA Toll Dialing Parity Plan.

IT IS THEREFORE ORDERED THAT:

1. The amended Plan of AVR, LP d/b/a Hyperion of Tennessee, LP for IntraLATA Toll Dialing Parity Implementation, a copy of which is attached as Exhibit A, is hereby approved and is incorporated in this Order as if fully rewritten herein;

2. AVR, LP d/b/a Hyperion of Tennessee, LP shall comply with all applicable sections of FCC Order 96-333 upon implementing IntraLATA equal access; and

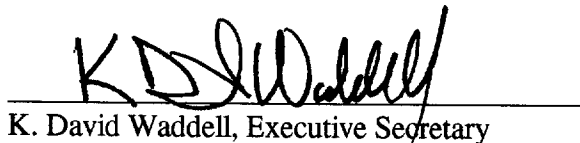
3. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within ten (10) days from and after the date of this Order.


Melvin J. Malone, Chairman


H. Lynn Greer, Jr., Director


Sara Kyle, Director

ATTEST:


K. David Waddell, Executive Secretary

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June 8, 1999

RECEIVED
EXEC. SECRETARY OFF.

JUN 10 1999

VIA FACSIMILE AND OVERNIGHT DELIVERY

TN REGULATORY AUTHORITY

K. David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

99-00287

Re: **AVR, LP's d/b/a Hyperion of Tennessee, LP - IntraLATA Toll Dialing Parity Plan**

Dear Mr. Waddell:

Following discussions with Mr. Carsie Mundie, please find enclosed on behalf of AVR, LP d/b/a Hyperion of Tennessee ("Hyperion") an original and thirteen (13) copies of Hyperion's revised IntraLATA Toll Dialing Parity Plan.

Please date-stamp the extra copy of this filing and return it to us in the self-addressed, prepaid envelope enclosed herein. Should you have any questions on this matter, please do not hesitate to contact us or Ron Del Sesto at (202) 945-6923.

Respectfully submitted,



Dana Frix
Kemal Hawa

Counsel for AVR, LP d/b/a Hyperion of
Tennessee, LP

Enclosures

cc: Ron Del Sesto

AVR, LP's D/B/A HYPERION OF TENNESSEE, LP

INTRALATA TOLL DIALING PARITY PLAN

INTRODUCTION

99-00287

AVR, LP d/b/a Hyperion of Tennessee, LP ("Hyperion") has implemented the following processes which are designed to give end user customers the opportunity to designate a carrier for their intraLATA toll call traffic in those market areas where Hyperion is a facilities-based local exchange service provider. IntraLATA toll calls will automatically be directed to the designated carrier without the customer having to dial an access code.

Hyperion will comply with all pertinent Federal Communications Commission ("FCC") and Tennessee Regulatory Authority ("Authority") rules with regard to the provision of intraLATA toll dialing parity. Hyperion intends to implement its intraLATA toll dialing parity plan no later than thirty (30) days following the Authority's approval of Hyperion's dialing parity plan or July 22, 1999, whichever is earlier. Hyperion will provide intraLATA toll dialing parity in the following exchanges: 234, 236, 239, 240, 263, 278, 565 and 562 (currently inactive). Hyperion will associate with the Nashville LATA.

POLICIES

Hyperion will deploy two-PIC (Primary Interexchange Carrier) technology in its switches enabling customers to pre-subscribe to either the same or two different carriers for their intraLATA and interLATA service.

Appropriate tariffs will be revised and filed in accordance with this plan.

Hyperion will offer customers the ability to access all participating carriers by dialing the appropriate access code (10XXX/101XXXX).

All eligible Hyperion end user telephone line numbers will be pre-subscribed and have a PIC associated with them. See second paragraph of Pre-Subscription Information.

In the event that Hyperion offers operator service and/or directory assistance, it will offer such services in a nondiscriminatory manner. Hyperion will provide access to telephone numbers and directory listings upon demand and in a nondiscriminatory manner.

CARRIER INFORMATION

Interexchange carriers will have the option of offering intraLATA service only or intraLATA and interLATA service.

Interexchange carriers will have the option of participating in all market areas or in a specific market area.

Interexchange carriers will be required to return a completed Non-Disclosure Agreement and Participation Agreement(s).

Hyperion will not participate in billing disputes for intraLATA service between an alternative competing interexchange carrier and its customers.

Hyperion representatives will not initiate or accept three-way calls from an alternative interexchange carrier in order to discuss pre-subscription.

Carriers wishing to participate will be requested to submit Access Service Requests/Translation Questionnaires to the Access Tandem owner and to Hyperion.

CALL ELIGIBILITY/TOLL DIALING PLAN

All local service customers of Hyperion will have calls routed according to the following plan:

If a Hyperion Customer Dials:	The Call is Handled By/Routed To:
911	PSAP on originating line number
411/555-1212	Hyperion's Directory Assistance Operator
0-	Hyperion's Operator
0 + intraexchange number	IntraLATA Toll Provider
1 + 7 or 10 digits	IntraLATA Toll Provider
0 + 7 or 10 digits interexchange number	InterLATA Toll Provider
10XXX or 101XXXX + 0-	XXX/XXXX Carrier
10XXX or 101XXXX + 0 + 7 or 10 digits	XXX/XXXX Carrier
10XXX or 101XXXX + 7 or 10 digits	XXX/XXXX Carrier

If a Hyperion customer originates a call to an alternative interexchange carrier's Operator by dialing 00-, the call will be routed to the PIC on that customer's line. If the customer originates a call to an alternative interexchange carrier's Operator by dialing an access code (e.g., 10XXX/101XXXX + 0-), the call will be routed to the XXX/XXXX carrier. In both cases, the carrier's switch is responsible for routing this call to the alternative interexchange carrier's Operator or to an announcement.

NETWORK INFORMATION

All originating intraLATA traffic will initially be routed via the incumbent Local Exchange Carrier (LEC) Access Tandem(s). Following conversion, direct trunks between the Hyperion switch and the interexchange carrier location(s) may be provided when warranted by traffic volume.

Interexchange carriers must have Feature Group D trunks in place (or ordered) between their point of presence and the incumbent LEC Access Tandem(s).

Hyperion will route all originating intraLATA traffic to the designated carrier and will only block traffic at the request of the end user customer and/or in compliance with regulatory requirements.

Requests from carriers to block traffic or to remove customers from their network will not be honored. Calls that cannot be completed to a carrier will be routed to an announcement.

CUSTOMER NOTIFICATION/EDUCATION PROCEDURES

Consistent with the IntraLATA toll dialing parity implementation date, Hyperion will include an insert in customer bills explaining to Tennessee consumers that they now have a choice of intraLATA toll providers. The insert will also detail procedures for choosing IntraLATA toll providers.

CUSTOMER CONTACT INFORMATION

Hyperion customer contact representatives will process customer initiated PIC selections to Hyperion or to an alternative intraLATA carrier. Carriers will have the option of allowing the Hyperion representative to process PIC requests on their behalf.

Hyperion will not ballot or allocate its customer base. At the time of conversion, all customers will remain with their existing carrier unless another carrier is chosen by the particular customer.

Hyperion customer contact representatives will respond to customer inquiries about intraLATA carriers in a competitively neutral fashion. If a customer requests information on alternative carriers other than Hyperion, a list of participating carriers will be read to that customer in random order by Hyperion representatives.

If the intraLATA toll carrier selected by the customer permits Hyperion to process orders on its behalf, Hyperion will accept the PIC change request. If the customer selects an intraLATA toll carrier that does not allow Hyperion to process PIC changes on its behalf, Hyperion will provide the customer with the carrier's toll-free number (if provided by the carrier).

Hyperion representatives will not discuss alternative carrier rates or services and will not provide customers with Carrier Identification Codes or access code dialing instructions.

PRE-SUBSCRIPTION INFORMATION

In order to recover the costs associated with the implementation of intraLATA toll dialing parity, Hyperion will impose a PIC change charge on its customers for each eligible line where a PIC change is made. Hyperion will offer its customers a 90-day grace period following the implementation of this plan during which the customers may change intraLATA carriers without incurring a PIC change charge. Customers can make multiple PIC changes during these 90 days at no charge. After the 90-day period, Hyperion will assess the \$5.00 PIC change charge for each PIC change made. Hyperion will offer interexchange carriers the option of having the PIC charge billed to the carrier or directly to the customer.

New line customers, including customers adding lines, will have the opportunity to select a participating carrier, or they will be assigned a NO PIC designation. If a customer cannot decide upon an intraLATA carrier at the time of order, Hyperion may extend a 30-day period following placement of the customer's service order for the customer to select an intraLATA carrier without

charge. Such a customer will be assigned a NO PIC designation in the interim. After this 30-day period, Hyperion will assess the \$5.00 PIC change charge as described above. Customers assigned a NO PIC designation as set forth in this paragraph will be required to dial an access code to reach an intraLATA carrier's network.

If a Hyperion customer denies requesting a change in intraLATA toll providers as submitted by an intraLATA carrier, and the intraLATA carrier is unable to produce a Letter of Agency signed by the customer or some other form of verification that is permitted by law, the intraLATA carrier will be assessed a \$30.00 charge for the unauthorized PIC change and the PIC will be changed as per the customer's request. This penalty is in addition to any other penalties authorized by law.

Alternative interexchange carriers may submit PIC changes to Hyperion via a fax/paper interface.

Hyperion will process intraLATA PIC selections in the same manner and under the same intervals of time as interLATA PIC changes.

Carriers will be required to submit PIC changes using the Customer Account Record Exchange (CARE) format via paper medium. Hyperion will provide carriers with PIC order confirmation and reject information using the CARE format. Specific details regarding CARE will be provided to participating carriers.

For customers who change their local service provider from the incumbent LEC to Hyperion and retain their incumbent LEC telephone number(s), Hyperion, as part of the CARE PIC process, will provide the selected intraLATA carrier with both the retained (incumbent LEC) telephone number and the Hyperion telephone number.

Dated: June 8, 1999